BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

EUGENE TRACY	)	
Claimant	)	
	)	
VS.	)	
	)	
SECURITAS SECURITY SERVICES	)	
Respondent	)	Docket No. 1,026,237
	)	
AND	)	
	)	
INDEMNITY INSURANCE CO. OF NORTH AMERICA	)	
Insurance Carrier	)	

ORDER

STATEMENT OF THE CASE

Claimant requested review of the October 30, 2008, Award entered by Administrative Law Judge Kenneth J. Hursh. The Board heard oral argument on February 3, 2009. Steffanie L. Stracke, of Kansas City, Missouri, appeared for claimant. L. Anne Wickliffe, of Kansas City, Missouri, appeared for respondent and its insurance carrier (respondent).

The Administrative Law Judge (ALJ) found that claimant suffered an injury to his low back that arose out of and in the course of his employment with respondent. The ALJ found that claimant had a 2.5 percent permanent partial impairment to the body as a whole. The ALJ further found, however, that claimant's back strain did not limit his ability to perform work beyond limitations that were already present from previous injuries and personal health conditions. Accordingly, the ALJ denied claimant work disability benefits and limited his permanent partial disability to his functional disability.

The Board has considered the record and adopted the stipulations listed in the Award. The record does not include the document respondent attached to its brief to the Board marked "Exhibit A," which was the April 12, 2006, Functional Capacity Evaluation report of Kim Salanski and J. Kent Siemens. The record also does not include the Stipulation for Compromise Settlement dated April 23, 2007, the report of William Patty,

ARNP, dated November 9, 2005, or the report of Dr. Daniel Stechschulte, Jr., dated October 15, 2006, which were attached to respondent's submission letter to the ALJ marked as Exhibits 1, 3 and 5.

ISSUES

Claimant requests review of the ALJ's finding that he was not entitled to a work disability.

Respondent requests that the Board affirm the Award entered by the ALJ. Respondent contends that there must be an underlying injury creating the inability to work in order for an employee to qualify for work disability. Respondent further asserts that claimant's injury was not of significant magnitude to affect his ability to maintain employment and that his work limitations are the result of his various medical conditions not related to his accident. Respondent asserts that claimant did not make a good faith effort to find employment and, therefore, the Board should have a wage imputed to him of at least $12.50 per hour, which would preclude him from being eligible for work disability because it would be more than 90 percent of his earnings at respondent.

The issue for the Board's review is the nature and extent of claimant's disability. Specifically, is claimant entitled to a work disability or is he limited to his functional impairment?

FINDINGS OF FACT

Claimant was 57 years old at the time of the injury involved in this case. He originally worked for respondent as an unarmed security guard. In April 2005, he suffered a work-related injury to his left shoulder that required surgery. Because of his shoulder injury, he was given work restrictions of not lifting more than 25 pounds over his head with his left arm. As a result, he was given an accommodated position as a dispatcher, which did not require any lifting. He was still working this accommodated position on the date of accident in this case.

On September 24, 2005, an alarm clock went off in the area claimant was working. Claimant located the source of the noise and got on his hands and knees to disengage the clock. When he pulled on the wires, he rolled over backwards. He balled himself up in an effort to protect his left shoulder and in the process, pulled muscles in his low back. He immediately reported the accident, but his supervisor was out and his temporary replacement did not fill out an accident report or send him for treatment. When claimant's regular supervisor returned a week later, the accident report was filed, but claimant was not immediately sent for medical treatment.

On November 9, 2005, claimant was sent to Concentra by respondent and was taken off work for a week. When he returned to Concentra a week later for a follow up

visit, he was informed that the doctor could find nothing wrong with him, and he was cleared to return to work. He has received no other medical treatment to his low back. Claimant returned to his light duty work as a dispatcher. He continued to work in that accommodated position until April 20, 2007. At that time, claimant was informed that he was being terminated from his position because he was physically unable to perform the job because he could not lift 25 pounds over his head.

Claimant has a myriad of personal medical conditions that include congestive heart failure, diabetes mellitus Type II, seizure disorder, hypertension, and morbid obesity. He has been diagnosed with meralgia paresthetica. He has a history of acute renal failure and ulcerative colitis. He had colon cancer and as a result, he now has an ileostomy. He received an early discharge from the United States Air Force when he was diagnosed as being paranoid schizophrenic and receives a 30 percent disability from the Veterans Administration (VA) for that condition. He had three previous work-related accidents, one involving his back, another involving a caustic burn on his leg, and the left shoulder injury of April 2005.

Claimant was examined by Dr. Gregory Walker on January 25, 2006, at the request of claimant's attorney. At that time, claimant complained of intermittent pain and numbness in his left lateral thigh, pressure on the upper left thigh sometimes causing a burning or tearing sensation, and pressure on the upper left hip in the sacroiliac region which causes severe pain. Dr. Walker diagnosed claimant with meralgia paresthetica involving the left lateral thigh, as well as a mild lumbar strain. He noted that claimant had positive Waddell signs upon examination of his low back and there may have been symptom magnification. Dr. Walker believed that claimant's meralgia paresthetica was not related to claimant's injury but could be related to his morbid obesity. He related claimant's lumbar strain to the injury on September 24, 2005.

On September 10, 2007, claimant was examined by Dr. Vito Carabetta at the request of the ALJ. Claimant presented Dr. Carabetta with a chief complaint of low back pain, predominantly on the right side. Claimant also complained of constant burning and tingling sensation in the lateral left thigh. After examination, Dr. Carabetta diagnosed him with meralgia paresthetica and low back pain. He concluded that claimant's meralgia paresthetica was not related to claimant's back injury. He also opined that claimant's back problem was a soft tissue injury. Dr. Carabetta further stated:

> Though the physical examination does not show reliable objective findings at this time, this is understandable given his body habitus and the passage of two years, resulting in possible intermittent and inconsistent findings. If the Court were to give the patient some latitude in this regard, then we can view the situation as having relatively objective findings.[1]

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[1] IME report of Dr. Vito Carabetta, September 10, 2007, at 3 (filed Aug. 27, 2008).

Utilizing the AMA *Guides*[2], Dr. Carabetta opined that claimant was in diagnosis related estimate (DRE) Category II with a 5 percent whole person impairment, which he attributed to claimant's accident of September 24, 2005. In his supplemental report of October 5, 2007, Dr. Carabetta recommended that claimant's maximum occasional lifting should be limited to no more than 15 pounds, with more frequent lifting or carrying not to exceed 5 to 8 pounds. He further recommended that claimant perform bending or stooping activities only occasionally.

Dr. P. Brent Koprivica is board certified in emergency medicine and in occupational medicine and is a certified independent medical examiner. He met with claimant on February 9, 2008, at the request of claimant's attorney. Claimant complained of ongoing disabling low back pain that limited him to standing intervals of less than 10 minutes. Claimant told him he could walk less than 150 feet. Claimant said his low back limited him to sitting in intervals of less than an hour. He used a cane because he was afraid he would fall because of weakness in his left leg, which he did not attribute to the accident.

Upon examination, Dr. Koprivica noted that claimant is significantly overweight. He also opined that there were psychological factors that affected the clinical examination. Claimant did not have a bell type distribution of his grip strength testing, so Dr. Koprivica believed there was some self-limitation. Claimant did not fulfill the validity criteria on motion of the lumbar spine. Dr. Koprivica said that from an objective standpoint, the structural capabilities of claimant's back are greater than what he demonstrated at the examination. Claimant's reflexes were diminished but symmetrical. He had loss of sensation, but it was in a stocking distribution, which is suggestive that it was not purely anatomic and there may have been a psychological component.

After reviewing claimant's medical records, history, and his physical examination, Dr. Koprivica believed that claimant suffered permanent aggravation to his preexisting degenerative disease in the low back. Based on the AMA *Guides*, Dr. Koprivica placed claimant in DRE Category II and assigned a 5 percent permanent partial impairment to the whole body. He recommended that as a result of the September 24, 2005, back injury, claimant's captive sitting intervals should be limited to less than one hour and that standing and walking should be restricted to 15-minute intervals. He restricted claimant entirely from squatting, crawling, kneeling or climbing. He felt claimant should avoid frequent or constant bending at the waist, pushing, pulling or twisting and sustained or altered postures of the low back. Claimant already had a lifting and carrying restriction, so Dr. Koprivica did not add any additional weight limitations, but considered those limitations to also apply to his back injury.

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[2] American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed.). All references are based upon the fourth edition of the *Guides* unless otherwise noted.

Dr. Koprivica reviewed the task list prepared by Terry Cordray. Of the 15 tasks on that list, he opined that claimant was unable to perform 13 for an 87 percent task loss. He also reviewed the task list prepared by Michael Dreiling. Of the 17 tasks on that list, he believed that claimant was unable to perform 13 for a task loss of 76 percent. He believed that claimant was totally disabled, but did not believe the September 24, 2005, injury was totally disabling in isolation.

Dr. Allen Parmet, who is board certified in aerospace medicine and occupational medicine, examined claimant on March 25, 2008, at the request of respondent. Claimant gave a history of his injury on September 24, 2005, and complained that he had neck and back pain that got worse every day. Claimant told Dr. Parmet that he could not stand, sit or walk for more than 10 minutes at a time. He complained of pain in his back, dizziness, and headaches. He rated his back pain as a 5 on a scale of 0 to 10 at the time of the examination, and said his pain ranged from 2 to 10. He had no radicular pain.

Dr. Parmet took x-rays of claimant's back and found he had some mild degenerative changes that were age-appropriate. Claimant's lumbosacral spine examination was difficult because while standing, claimant refused to bend over. While seated, claimant could straight leg raise to 70 degrees, which would match a bend. Dr. Parmet stated: "When a patient can sit and I can do straight-leg raising, obviously there's a major disconnect between what they're willing to perform and what I can actually measure."[3] Waddell's tests were all positive. During the 1 hour 25 minute interview and examination, claimant did not indicate any difficulty maintaining posture.

As relates to the September 24, 2005, accident, Dr. Parmet diagnosed claimant with a low back strain. Utilizing the AMA *Guides*, Dr. Parmet placed claimant in DRE Category I, subjective complaints only. He did not find any evidence of radiculopathy or motion segment loss, so he rated claimant as having a 0 percent impairment. He would not impose any restrictions on claimant based on his low back strain.

Dr. Parmet reviewed the task list prepared by Mr. Cordray and said there was nothing on the list claimant could not perform due to his low back condition. He did not agree with Drs. Carabetta or Koprivica that claimant needed restrictions relating to his back.

Michael Dreiling, a vocational rehabilitation consultant, met with claimant on October 31, 2007, at the request of claimant's attorney. Mr. Dreiling identified 17 individual tasks performed by claimant in the 15 years before his accident in September 2005.

Claimant indicated to Mr. Dreiling that he was a high school graduate and had an associates degree in computer systems technology. He has basic typing abilities. At the

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[3] Parmet Depo. at 15.

time Mr. Dreiling met with claimant, he was not working and had a 100 percent wage loss. Mr. Dreiling was not aware that claimant had two associates degrees. He was also not aware that claimant had an A plus rating certification in computers or that claimant had completed a security guard training program before undertaking employment as a security guard.

Mr. Dreiling believed that claimant's job search included the types of work that he had previously held, *i.e.*, positions in the computer field and security field. Claimant told Mr. Dreiling that he had a résumé and used the Kansas Job Link internet site. Mr. Dreiling opined that claimant was not employable in the current labor market when taking into consideration his vocational profile, age, and medical difficulties.

Terry Cordray, a vocational rehabilitation counselor, met with claimant on January 4, 2008, at the request of respondent. Mr. Cordray identified 15 job tasks claimant performed in the 15-year period before his accident.

Claimant told Mr. Cordray that he graduated from high school. He was in the United States Air Force for two years and was discharged for psychological problems and has a disability from the military He attended electronics training at Central Technical Institute. He received associates of arts degrees in electrical engineering technology and computer systems technology from Johnson County Community College. He has knowledge of computer software typically used in an office. He has an A plus rating certification and had security officer training at Penn Valley Community College.

Claimant told Mr. Cordray that he applied for jobs over the internet but did not go out and do job applications. Mr. Cordray stated that claimant contacted appropriate potential employers and applied for work that he believed he was qualified to perform. At the time of the interview, however, claimant was not registered with the employment office. He had not contacted the state vocational rehabilitation agency or the VA for assistance with job placement or vocational rehabilitation. Claimant told Mr. Cordray that he applied for jobs as required while collecting unemployment but had not applied for any jobs after the unemployment benefits ended.

Mr. Cordray testified that claimant's knowledge received as a dispatcher for respondent would apply to a dispatcher position in a police or fire department or a trucking firm, if he could get a CDL. He stated that claimant also had significant computer skills which could transfer to computer technical jobs. The average entry-level wage for a person in the computer technical support field is $12.48 per hour. Claimant has two associate degrees and several years of experience in that field, but had been out of the field for eight years so would probably have to start at entry level or at the 25th percentile. In other words, he would probably start at between $12.48 and $15.80 per hour. He did not think claimant would need additional training in order to return to work in the computer industry. Without factoring in positions in the computer technical support field, Mr. Cordray

opined that claimant maintained the ability to earn $9.50 per hour, which would be a 24 percent wage loss.[4]

Mr. Cordray stated that claimant has barriers to job placement, which include his previous medical problems, his medical restrictions, his use of a cane, his age, and his personal presentation. He did not believe that claimant was totally disabled or unable to be placed in a job.

PRINCIPLES OF LAW

K.S.A. 2008 Supp. 44-501(a) states in part: "In proceedings under the workers compensation act, the burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends."

K.S.A. 2008 Supp. 44-508(g) defines burden of proof as follows: "'Burden of proof' means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record."

An accidental injury is compensable under the Workers Compensation Act even where the accident only serves to aggravate a preexisting condition.[5] The test is not whether the accident causes the condition, but whether the accident aggravates or accelerates the condition.[6] An injury is not compensable, however, where the worsening or new injury would have occurred even absent the accidental injury or where the worsening is shown to have been produced by an independent intervening cause.[7]

K.S.A. 44-510e(a) states in part:

> Permanent partial general disability exists when the employee is disabled in a manner which is partial in character and permanent in quality and which is not covered by the schedule in K.S.A. 44-510d and amendments thereto. The extent of permanent partial general disability shall be the extent, expressed as a percentage, to which the employee, in the opinion of the physician, has lost the ability to perform the work tasks that the employee performed in any substantial

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[4] Claimant's stipulated preinjury average weekly wage with respondent was $518.50. Based upon a post-injury wage earning ability of $9.50 per hour and a 40-hour work week, claimant's wage loss would be approximately 27 percent. Using $12.48 per hour would result in a wage loss of approximately 4 percent.

[5] *Odell v. Unified School District*, 206 Kan. 752, 758, 481 P.2d 974 (1971).

[6] *Woodward v. Beech Aircraft Corp.*, 24 Kan. App. 2d 510, Syl. ¶ 2, 949 P.2d 1149 (1997).

[7] *Nance v. Harvey County*, 263 Kan. 542, 547-50, 952 P.2d 411 (1997).

> gainful employment during the fifteen-year period preceding the accident, averaged together with the difference between the average weekly wage the worker was earning at the time of the injury and the average weekly wage the worker is earning after the injury. In any event, the extent of permanent partial general disability shall not be less than the percentage of functional impairment. . . . An employee shall not be entitled to receive permanent partial general disability compensation in excess of the percentage of functional impairment as long as the employee is engaging in any work for wages equal to 90% or more of the average gross weekly wage that the employee was earning at the time of the injury.

The Kansas Court of Appeals in *Watson*[8] held the failure to make a good faith effort to find appropriate employment does not automatically limit the permanent partial general disability to the functional impairment rating. Instead, the Court reiterated that when a worker failed to make a good faith effort to find employment, the post-injury wage for the permanent partial general disability formula should be based upon all the evidence, including expert testimony concerning the capacity to earn wages.

> In determining an appropriate disability award, if a finding is made that the claimant has not made a good faith effort to find employment, the factfinder must determine an appropriate post-injury wage based on all the evidence before it. This can include expert testimony concerning the capacity to earn wages.[9]

Despite the clear signals from recent decisions of the Kansas Supreme Court that the literal language of the statutes should be applied and followed whenever possible, there has yet to be a specific repudiation of the good faith requirement by the Supreme Court. Absent an appellate court decision overturning *Copeland*[10] and its progeny, the Board is compelled by the doctrine of *stare decisis* to follow those precedents. Consequently, the Board must look to whether claimant demonstrated a good faith effort post injury to find appropriate employment.

"The work-disability award provides partial compensation for post-injury wage loss. Even if that wage loss is increased because the employee loses his or her pre-injury job, there is no statutory requirement that the job loss be caused by the injury."[11]

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[8] *Watson v. Johnson Controls, Inc.*, 29 Kan. App. 2d 1078, 36 P.3d 323 (2001). But see *Gutierrez v. Dold Foods*, __ Kan. App. 2d __, __ P.3d __ (No. 99,535 filed January 16, 2009); *Stephens v. Phillips County*, 38 Kan. App. 2d 988, 174 P.3d 452, *rev. denied* 286 Kan. ___ (2008).

[9] *Watson,* at Syl. ¶ 4.

[10] *Copeland v. Johnson Group, Inc.*, 24 Kan. App. 2d 306, Syl. ¶ 7, 944 P.2d 179 (1997).

[11] *Stephens v. Phillips County*, 38 Kan. App. 2d 988, Syl. ¶ 2, 38 Kan. App. 2d 988, 174 P.3d 452, *rev. denied* 286 Kan. ___ (2008).

In *Roskilly*,[12] the Kansas Court of Appeals held that the then current version of K.S.A. 44-510e(a) does not preclude an award of work disability after a claimant's loss of employment, even though due to reasons other than his or her injury.

> K.S.A. 44-510e(a) as amended in 1993 is interpreted and applied. An injured worker who demonstrates substantial task loss as a result of a work-related injury may recover work disability benefits after returning to his or her unaccommodated employment but thereafter being terminated for a reason not related to his or her underlying injury or the resulting disability. The statute no longer distinguishes between accommodated employment and unaccommodated employment in determining whether an injured worker is entitled to work disability benefits.[13]

The court went on to state:

> In addition, the 1993 legislative amendment to K.S.A. 44-510e(a) removed from the statute the language "[t]here shall be a presumption that the employee has no work disability *if*" the employee engages in any work for wages comparable to the average gross weekly wage that the employee was earning at the time of the injury, and replaced the same with the language "[a]n employee shall not be entitled to receive permanent partial general disability compensation in excess of the percentage of functional impairment *as long as* the employee is engaging in any work for wages equal to 90% or more of the average gross weekly wage that the employee was earning at the time of the injury." (Emphasis added.) L. 1993, ch. 286, sec. 34. The language of the statute as amended is plain and unambiguous, leaving no room for judicial construction. See *Williamson v. City of Hays*, 275 Kan. 300, 305, 64 P.3d 364 (2003). We hold that on its face K.S.A. 44-510e(a) no longer may be read to make a distinction between accommodated employment and unaccommodated employment when determining an injured worker's right to recover work disability benefits.[14]

ANALYSIS

Claimant was able to perform his job as a dispatcher following his return to work from the back injury. He continued to perform that job until he was terminated. The only reason for claimant's termination in this record is claimant's testimony that he was told his termination was due to his lifting restriction, even though the dispatcher job required no lifting. It appears that the only thing that had changed was that claimant had settled or had

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[12] *Roskilly v. Boeing Co.*, 34 Kan. App. 2d 196, 116 P.3d 38 (2005).

[13] *Id.*, Syl.

[14] *Id.* at 201.

agreed to settle his Missouri workers compensation claims. At that time, claimant had not been given any new or additional restrictions due to his back injury.

The ALJ denied claimant a work disability based in part upon *Watkins*. However, the cited rule in *Watkins* was overturned in *Roskilly*. The ALJ further found that the back injury did not limit claimant's ability to perform work beyond what claimant's preexisting condition had already limited him. In so finding, the ALJ determined that claimant had no new or additional restrictions as a result of the back injury. The Board disagrees. The Board finds that claimant's restrictions resulting from his back injury are different and more extensive than his previous restrictions. Claimant's lifting restriction from his left shoulder injury was only as to the left arm and only limited overhead lifting, whereas the restrictions recommended by Dr. Carabetta, the court-ordered IME physician, were for less weight, included lifting with either arm, and included restrictions concerning carrying, bending, and stooping. Moreover, Dr. Koprivica gave restrictions regarding sitting, standing, and walking, in addition to prohibiting claimant from squatting, crawling, kneeling, and climbing. Based upon the two task loss opinions of Dr. Koprivica, the Board finds claimant has lost the ability to perform 82 percent of the work tasks he performed during the 15-year period preceding his accident. This is an average of the 87 percent task loss opinion Dr. Koprivica gave using the task list prepared by Mr. Cordray and the 76 percent opinion using the list prepared by Mr. Dreiling.

Claimant is not permanently totally disabled. After his accident, claimant was employed by respondent and earned at least 90 percent of his preinjury average weekly wage. After his April 20, 2007, termination, claimant has not worked and he has had a 100 percent actual wage loss. However, the Kansas appellate courts have required that before the actual wage loss can be utilized, the factfinder must determine that claimant has made a good faith effort to find employment within his restrictions. If he has not, then a wage must be imputed to claimant based upon his ability to earn wages.[15] Claimant made a good faith job search through November 10, 2007, as evidenced by claimant's Exhibit 1 to the regular hearing. Therefore, for the period of April 21, 2007, through November 10, 2007, claimant is entitled to a 91 percent work disability based upon the average of his 82 percent task loss and his 100 percent wage loss.

But since November 10, 2007, claimant has not looked for work and, therefore, he obviously has failed to make a good faith effort to find work. He retains the ability to earn $12.48 per hour or $499.20 a week. When compared to his preinjury gross average weekly wage of $518.50, this represents less than a 10 percent wage loss. Based upon this imputed wage, by operation of law, claimant is deemed to be engaging in work for wages equal to 90 percent or more of the gross average weekly wage he was earning at

[15] The Board is mindful of claimant's argument that K.S.A. 44-510e should be strictly construed. The statute does not require a good faith job search. However, this has been the holding of the Kansas appellate courts for many years and in numerous decisions. Accordingly, if this good faith test is to be changed, the change must come from the appellate courts. Until then, the Board will continue to follow their precedents.

the time of his injury. Accordingly, beginning November 11, 2007, claimant's permanent partial disability compensation is limited to his percentage of functional impairment. Likewise, claimant is limited to his functional impairment while he was still working for respondent after his injury. The parties did not dispute the ALJ's finding of a 2.5 percent functional impairment. Accordingly, claimant is awarded permanent partial disability compensation for a 2.5 percent permanent partial general body disability.

CONCLUSION

Claimant is limited to an award based on his functional disability of 2.5 percent from the date of his accident, September 24, 2005, until his termination by respondent on April 20, 2007. For the period of April 21, 2007, through November 10, 2007, claimant is entitled to a work disability award of 91 percent. Thereafter, beginning November 11, 2007, claimant is again limited to his functional disability.

The Board notes that the ALJ did not award claimant's counsel a fee for her services. The record does not contain a fee agreement between claimant and his attorney. K.S.A. 44-536(b) requires that the Director review such fee agreements and approve such contract and fees in accordance with that statute. Should claimant's counsel desire a fee be approved in this matter, she must submit her contract with claimant to the ALJ for approval.

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Kenneth J. Hursh dated October 30, 2008, is modified as follows:

For the period of September 25, 2005, through April 20, 2007, while working for respondent, claimant is entitled to his functional impairment of 2.5 percent, which computes to 10.38 weeks permanent partial disability compensation at the rate of $345.68 per week totaling $3,588.16.

For the period of April 21, 2007, through November 10, 2007, a period of 29.14 weeks, claimant is entitled to a 91 percent work disability which, at $345.68 per week, equals $10,073.12.

As of November 11, 2007, claimant is again entitled to his 2.5 percent functional impairment. As of this date, claimant's functional impairment had already been fully paid and, therefore, all permanent partial disability compensation payments would cease.

The total amount of claimant's permanent partial disability award is $13,661.28. As of the date of this Order, the entire amount is due and owing and ordered paid in one lump sum, minus any amounts previously paid.

IT IS SO ORDERED.

Dated this _____ day of February, 2009.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Steffanie L. Stracke, Attorney for Claimant
L. Anne Wickliffe, Attorney for Respondent and its Insurance Carrier
Kenneth J. Hursh, Administrative Law Judge